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No. 83-1538

In The
SUPREME COURT OF THE UNITED STATES
October Term, 1983

RICHARD LAFFERTY
Petitioner,
v.
ALYESKA PIPELINE SERVICE COMPANY, FLUOR ALASKA, INC., and NANA SECURITIES, or JOHN DOE 1,
Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF ALASKA

PETITIONER'S REPLY BRIEF

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QUESTION

Is there no federal question involved and is there only a question of the straightforward interpretation and application of Alaska Rule of Civil Procedure 60 b as Alyeska contends in their Brief in Opposition?

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TABLE OF STATUES

43 USCS 1651 "Trans-Alaska Pipeline Authorization Act"

42 USCS 7101 "Department of Energy Organization Act"

Alaska Rule of Civil Procedure 60 b (see page 70 of Petition for Certiorari)

TABLE OF CASES

O'Link v. O'Link, 632 P.2d 225 (Alaska 1981)

Farrell v. Dome Laboratories, 650 P.2d 380 (Alaska 1982)

Again Alyeska has demonstrated their ability to produce a brief superior to mine. If I had not lived this case I would be persuaded by it myself. They make it appear that no federal question is involved and that this case is simply a matter of a straightforward interpretation and application of Alaska Rule of Civil Procedure 60 b, and that this is purely a state matter best left to the state.

Alyeska does not mention that I raised the federal question eight years ago when they threatened me with their search, by me saying to them that such a search would be a violation of my constitutional rights.

I presented this federal question to the Alaska Supreme Court, and that they did not decide on it, is no fault of mine. It was Alyeska who was successful in

persuading the Ak S.Ct. in narrowing its view to nothing more than rule 60 b.

I believe that when Ak rule 60 b is used to shield a federal question, it becomes a federal question itself. If this were not true the state could pass laws or rules, covering its citizens with a blanket law, making it impossible for its citizens to be seen by the Supreme Court, and then federal wrongs could be done to those citizens with impunity. Such a blanket law or rule would be a violation of the supremacy clause. It would make a nullity of the Constitution and emasculate the Supreme Court. In order to have strength the Supreme Court must be able to see through any state law or rule to the subsisting federal question. Anything less would reduce the Court to a figurehead totally incapable of reaching infractions of federal law shielded by state law.

My suit does involve a federal question because it is based squarely on a violation of the protections of the Fourth Amendment.

In neither of the cases cited by Alyeska in their Brief in Opposition is a federal question present. In the O'Link case the issue was merely the modification of an existing divorce decree. In the Dome Laboratories case, the issue was merely to amend a dismissal without prejudice to one requiring that suit be brought within a specific time.

In both of these cases the filing was late by a far greater period of time than mine was. In O'Link the filing was one year and five months late and in Dome Laboratories it was two years late, while my filing was only five months late.

In neither of these cases are the extenuating circumstances present that

were present in my case as cause for the late filing.

Neither of these cases concern the denial of a trial by jury and neither of them are based on a violation of the protections of the Fourth Amendment.

In neither of these cases is a federal question being shielded by Ak rule 60 b.

And finally, neither of these cases were carried to the Supreme Court on Certiorari.

It can be seen that neither of these cases provide precedential value as applied to my case.

The case history of my case disposes of Alyeska's assertion that my case is simply a straightforward matter of applying Ak rule 60 b.

The fact that Superior Court Judge Victor D. Carlson took eleven months to decide my motion to set aside his original summary judgment, is indicative

that he did not view this case as simply a straightforward rule 60 b question.

The fact that Justice Jay A. Rabinowitz voted to give me a rehearing is also indicative that Justice Rabinowitz did not consider this a straightforward 60 b question.

Justice Rabinowitz is the senior judge on the Ak S.Ct., with eighteen years on the bench.

It can also be deduced that even the four remaining Justices who apparently voted against giving me a rehearing nevertheless felt that there was more to this case than a straightforward 60 b question and that I had received no remedy, for they concluded their Memorandum Opinion and Judgment by saying that my proper remedy was an untimely appeal.

The fact that the Ak S.Ct. talks about what my remedy could have been is

indicative that the Court feels I deserved a remedy. The fact that they discuss my lack of remedy in a serious manner shows that they think my case is not frivolus.

This case is as serious as any case the Court will hear on personal rights guaranteed by the Constitution. I was searched against my will by a large corporation with the aid of the police power of the state. I was held hostage by this large corporation three days in a remote place until they finally were able to crush my ability to resist their search by calling in the State Police.

These acts were done on the Trans-Alaska Pipeline Project, a project encouraged by the Federal Government to free the United States from foreign energy dependence, and is under the jurisdiction of the Secretary of the

Interior, (43 USCS 1651), and also the Department of Energy, (42 USCS 7101), and therefore acts committed on this project are inherently federal with concurrent jurisdiction in some matters by the state.

My constitutional guarantee to be free from arbitrary searches and to be master of my own freedom, were both violated by this large corporation in a federally controlled and regulated project. Then when I complained of these violations by filing suit, the Alaska Court System denied me a trial by jury, and a denial of a trial by jury on a federal question is a federal issue, or at least it so seems to me.

Thus this case is intertwined with the Constitution and federal issues. And I do not think it can be maintained that an Alaskan rule of civil procedure that

is inextricably intertwined with these federal issues is beyond the reach of the Supreme Court.

In conclusion, it is evident by the Ak S.Ct.'s Memorandum Opinion and Judgment itself that I have received no remedy.

For whatever reason, when the highest court in a state cannot, does not, or will not provide a remedy, then I think that case comes properly before the Supreme Court of the United States.

Your Honors, I despair of ever producing a brief of the technical excellence of Alyeska. I can only hope that Your Honors will visualize what kind of brief Your Honors could produce with the facts I have on my side.